

Office of the Secretary of the Treasury

§ 50.74

remitted to Treasury for a Federal Terrorism Policy Surcharge previously established to determine whether any additional amount will be recouped by Treasury.

(d) For the purpose of determining initial or recalculated recoupment amounts, Treasury may issue a data call to insurers for insurer deductible and insured loss information by Program Year. Treasury's determination of the aggregate amount of insured losses from Program Trigger Events of all insurers for a Program Year will be based on the amounts reported in response to a data call and any other information Treasury in its discretion considers appropriate. Submission of data in response to a data call shall be on a form promulgated by Treasury.

§ 50.72 Establishment of Federal Terrorism Policy Surcharge.

(a) Treasury will establish the Federal Terrorism Policy Surcharge based on the following factors and considerations:

(1) In the case of a mandatory recoupment amount, the requirement to collect 133 percent of that amount;

(2) The total dollar amount to be recouped as a percentage of the latest available annual aggregate industry direct written premium information;

(3) The adjustment factors for terrorism loss risk-spreading premiums described in section 103(e)(8)(D) of the Act;

(4) The annual 3 percent limitation on terrorism loss risk-spreading premiums collected on a discretionary basis as provided in section 103(e)(8)(C) of the Act;

(5) A preferred minimum initial assessment period of one full year and subsequent extension periods in full year increments;

(6) The collection timing requirements of section 103(e)(7)(E) of the Act;

(7) The likelihood that the amount of the Federal Terrorism Policy Surcharge may result in the collection of an aggregate recoupment amount in excess of the planned recoupment amount; and

(8) Such other factors as the Secretary considers important.

(b) The Federal Terrorism Policy Surcharge shall be the obligation of

the policyholder and is payable to the insurer with the premium for a property and casualty insurance policy in effect during the assessment period established by Treasury. *See* § 50.74(c).

§ 50.73 Notification of recoupment.

(a) Treasury will provide notifications of recoupment through publication of notices in the FEDERAL REGISTER or in another manner Treasury deems appropriate, based upon the circumstances of the act of terrorism under consideration.

(b) Treasury will provide reasonable advance notice to insurers of any initial Federal Terrorism Policy Surcharge effective date. This effective date shall be January 1, unless such date would not provide for sufficient notice of implementation while meeting the collection timing requirements of section 103(e)(7)(E) of the Act.

(c) Treasury will provide reasonable advance notice to insurers of any modification or cessation of the Federal Terrorism Policy Surcharge.

(d) Treasury will provide notification to insurers annually as to the continuation of the Federal Terrorism Policy Surcharge.

§ 50.74 Collecting the Surcharge.

(a) Insurers shall collect a Federal Terrorism Policy Surcharge from policyholders as required by Treasury.

(b) Policies subject to the Federal Terrorism Policy Surcharge are those for which direct written premium is reported on commercial lines of business on the NAIC's Exhibit of Premiums and Losses of the NAIC Annual Statement (commonly known as Statutory Page 14) as provided in § 50.5(u)(1), or equivalently reported.

(c) For policies subject to the Federal Terrorism Policy Surcharge, the Surcharge shall be imposed and collected on a written premium basis for policies that incept or renew during the assessment period. All new, renewal, mid-term, and audit premiums for a policy term are subject to the Surcharge in effect on the policy term effective date. Notwithstanding this paragraph, if the premium for a policy term that would otherwise be subject to the Surcharge is revised after the end of the reporting period described in § 50.75(e), then any

§ 50.75

additional premium attributable to such revision is not subject to the Surcharge. For purposes of this subpart:

(1) Written premium basis means the premium amount charged a policyholder by an insurer for property and casualty insurance as defined in § 50.5(u), including all premiums, policy expense constants and fees defined as premium pursuant to the Statements of Statutory Accounting Principles established by the National Association of Insurance Commissioners, as adopted by the state for which the premium will be reported.

(2) In the case of a policy providing multiple insurance coverages, if an insurer cannot identify the premium amount charged a policyholder specifically for property and casualty insurance under the policy, then:

(i) If the insurer estimates that the portion of the premium amount charged for coverage other than property and casualty insurance is *de minimis* to the total premium for the policy, the insurer may impose and collect from the policyholder a Surcharge amount based on the total premium for the policy, but

(ii) If the insurer estimates that the portion of the premium amount charged for coverage other than property and casualty insurance is not *de minimis*, the insurer shall impose and collect from the policyholder a Surcharge amount based on a reasonable estimate of the premium amount for the property and casualty insurance coverage under the policy.

(3) The Federal Terrorism Policy Surcharge is not considered premium.

(d) A policyholder must pay the applicable Federal Terrorism Policy Surcharge when due. The insurer shall have such rights and remedies to enforce the collection of the Surcharge that are the equivalent to those that exist under applicable state or other law for nonpayment of premium.

(e) When an insurer returns an unearned premium, or otherwise refunds premium to a policyholder, it shall also return any Federal Terrorism Policy Surcharge collected that is attributable to the refunded premium. Notwithstanding this paragraph, if the written premium for a policy is revised and refunded after the end of the re-

31 CFR Subtitle A (7-1-14 Edition)

porting period described in § 50.75(e), then the insurer is not required to refund any Surcharge that is attributable to the refunded premium.

(f) Notwithstanding paragraphs (a), (b), and (c) of this section, if the expense of collecting the Federal Terrorism Policy Surcharge from all policyholders of an insurer during an assessment period exceeds the amount of the Surcharges anticipated to be collected, such insurer may satisfy its obligation to collect by omitting actual collection and instead remitting to Treasury the amount otherwise due.

(g) The Federal Terrorism Policy Surcharge is repayment of Federal financial assistance in an amount required by law. No fee or commission shall be charged on the Federal Terrorism Policy Surcharge.

§ 50.75 Remitting the surcharge.

(a) Each insurer shall provide a statement of direct written premium and Federal Terrorism Policy Surcharge to Treasury on a monthly basis, starting with the first month within the assessment period, through November of the calendar year and on an annual basis as of the last month of the calendar year. Reporting will be on a form prescribed by Treasury and will be due according to the following schedule:

(1) For each month beginning in the first month of the assessment period through November, the last business day of the calendar month following the month for which premium is reported, and

(2) March 1 for the calendar year.

(b) The monthly statements provided to Treasury will include the following:

(1) Cumulative calendar year direct written premium adjusted for premium not subject to the Federal Terrorism Policy Surcharge, summarized by policy year.

(2) The aggregate Federal Terrorism Policy Surcharge amount calculated by applying the established Surcharge percentage to the insurer's adjusted direct written premium by policy year.

(3) Insurer certification of the submission.

(c) The annual statements to be provided to Treasury will include the following: